

-13-

REMARKS

In response to the Office Action mailed on August 23, 2006, Applicants respectfully requests reconsideration. Claims 1, 3-6, 8-16, 18, 21,23-26, 28-36, 38, and 41-44 are now pending in this Application. In this Amendment, claims 7, 17, 27 and 37 have been cancelled, and claims 1, 8, 12, 18, 21, 28, 32, 38, 41 and 42 have been amended. A version of the claims containing markings to show the changes made is included hereinabove. Applicants believe that the claims as presented are in condition for allowance. A notice to this affect is respectfully requested.

Claims 1, 3-18, 21, 23-38 and 41-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication Number 2001/0042201 to Yamaguchi et al (hereinafter Yamaguchi) in view of U.S. Patent No. 6,292, 839 to Naudus et al. (hereinafter Naudus). Yamaguchi relates to a security method and system wherein a type of security to be applied is determined by analyzing a received packet. Naudus discloses a method and system for reflexive tunneling using hidden virtual tunnels.

Claim 1 has been amended to include the limitations of claim 7, namely that the step of modifying includes setting an error correction code in the tunneling header to reflect modifications made to convert the initial header to the tunneling header. The Examiner stated that combination of Yamaguchi and Naudus discloses setting an error correction code in the tunneling header to reflect modifications made to convert the initial header to the tunneling header in Naudus at column 4, lines 58-67 and column 5, lines 1-22. A careful review of Naudus fails to disclose or suggest setting an error correction code in the tunneling header to reflect modifications made to convert the initial header to the tunneling header. This section of Naudus discloses a modified header providing state information including a network address, network port, selected communication channel and the like. Naudus fails to disclose or suggest setting an error correction code in the tunneling header to reflect modifications made to convert the initial header to the tunneling header. If the Examiner is to maintain this rejection, he is asked to point out with particularity where in Naudus setting an error correction

code in the tunneling header to reflect modifications made to convert the initial header to the tunneling header is disclosed.

Since claim 1 recites setting an error correction code in the tunneling header to reflect modifications made to convert the initial header to the tunneling header, while Yamaguchi and Naudus fail to disclose or suggest the same, Claim 1 is believed allowable over Yamaguchi and Naudus.

Further, applicants again submit that the combination of Yamaguchi and Naudus is improper. It is well established that in order to combine references there must be some "suggestion of desirability of the combination". In re Noznik, Tatter and Oberhauf, USPQ 43 (CCPA 1973). Additionally the test of obviousness is not whether the prior art can be modified to produce the claimed invention, since under such a test all inventions would be obvious. Panduit Corp. v. Dennison Manufacturing Co., 810 F.2d 1561, 1574-75 (Fed. Cir. 1987). Further still, Yamaguchi and Naudus are in different class/subclass designations. Yamaguchi (security) is listed in class/subclass H04L 12/22 and Naudus (tunneling) in class/subclass G06F 13/00. The Patent Office itself has designated the references in different class/subclasses, further indicating that the references are different and should not be combined. Naudus does not disclose or suggest security, while Yamaguchi does not disclose or suggest tunneling. One of reasonable skill in the art would not look to a security system (Yamaguchi) as a manner of converting an initial request to a tunneling request. For all the reasons stated above, the combination of Yamagucchi and Naudus is improper and the rejection should be removed.

Claims 12, 21, 32, 41 and 42 have been amended to contain similar language as claim 1 and are believed allowable for the same reasons as claim 1. Claims 3-6, 8-11, 13-16, 18, 23-26, 28-31 and 33-36 38 and 43-44 depend from claims 1, 12, 21 or 32 and are believed allowable as they depend from a base claim which is believed allowable.

The Examiner rejected claims 43-44 as being unpatentable over Yamaguchi in view of Naudus and further in view of U.S. Patent Application Publication Number 2002/0114274 to Sturges (hereinafter Sturges). Claims 43-44 depend from claims 1 or 12 and are believed allowable as they depend from a base claim that is believed

allowable. The Examiner stated that Sturges teaches changing a payload during transmission. Applicants respectfully disagree with the Examiner's interpretation of Sturges in this regard. Sturges actually states that the RTP server can only send one type of payload at a time, although the payload type can change during transmission (e.g. audio to video), therefore the payload is not modified to convert the initial request to a tunneling request, but instead the server changes what type of payload is being transmitted by the server. Stated simply, in Sturges the payload of a packet is not modified, only the type of payloads being processed by the server is changed..

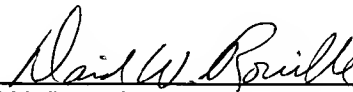
In view of the above, the Examiner's rejections are believed to have been overcome, placing claims 1, 3-6, 8-16, 18, 21, 23-26, 28-36, 38, and 41-44 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

Applicants hereby petitions for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3735.

-16-

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,



David W. Rouille, Esq.
Attorney for Applicants
Registration No.: 40,150
Chapin Intellectual Property Law, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, Massachusetts 01581
Telephone: (508) 616-9660
Facsimile: (508) 616-9661

Attorney Docket No.: CIS01-17(4404)

Dated: October 23, 2006